IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1993 of 2007
Date of Decision: 24.07.2007

Gurdev Singh ....Appellant

Versus

Amrik Singh ....Respondent

Before: Hon'ble Mr. Justice R.S. Madan

Present: Mr. Mandhir Singh Virk, Advocate
for the appellant.

R.S. Madan (J)

This Regular Second Appeal has been directed against the judgment and decree dated 26.04.2007 passed by Additional District Judge, Ferozepur, whereby in Civil Appeal No.93 of 14.01.2006 dismissed the appeal of the defendant/appellant and upheld the judgment and decree of the suit for recovery of Rs.20,000/- filed by the plaintiff/respondent along with interest at the rate of 1% per month.

In brief, facts of the case are that respondent/plaintiff Amrik Singh had filed a suit of recovery of Rs.26,800/- against the appellant/defendant alleging therein that on 16.11.1999 he had borrowed a sum of Rs.20,000/- from him in the presence of Jasbir Singh and in lieu thereof he executed a writing in his own and put his signature over there in the present of Bagicha Singh. He further agreed to pay the loan along with the interest at the rate of Rs.2% per month within three months. Despite of the writing the defendant/appellant failed to pay. Hence a suit of recovery for Rs.26,800/- was filed which included interest at the rate of Rs.1% per month uptil the date of filing of the suit.

Upon notice, defendant/appellant appeared and filled a written statement, contested the suit and denied his having obtained a loan of Rs.20,000/- from the respondent/plaintiff as well as executing any writing in

his favour. It was pleaded that writing, if any, is false, frivolous and fabricated document and the same does not bear his signature.

On the pleadings, parties went on trial to the following issues:-

1. Whether defendant borrowed a loan of Rs.20,000/- from plaintiff on 16.11.1999 and executed a receipt on 16.11.1999 in favour of the plaintiff with further acknowledgment on 22.1.2002? OPP
2. Whether the plaintiff is entitled to interest at the rate of 1% as pendent elite and future from the execution of receipt? OPP
3. Whether the receipt dated 16.11.1999 and 22.1.2002 are forged and fabricated documents? OPD
4. Relief.

Both the parties adduced evidence in support of their contentions raised in the pleadings.

After evaluating the evidence the learned trial court returned the finding of all the issues in favour of the plaintiff and decreed the suit as prayed for.

Aggrieved by the judgment and decree of the trial court the defendant/appellant filed the first appeal before the learned Additional District Judge, Ferozepur who after going through the evidence and hearing learned counsel for the parties dismissed the appeal of the defendant/appellant.

This is now a second attempt made by the defendant/appellant by filing the present Regular Second Appeal No.1993 of 2007.

At the very outset, learned counsel for the appellant was asked as to what is the substantial question of law involved in the present appeal. Learned counsel frankly conceded that the Regular Second Appeal is based on facts which have already been appreciated by the trial court as

well as the first appellate court.

In view of the observation made by the Hon'ble Supreme Court in **Gurdev Kaur versus Kaki's case** this court cannot become a third court for evaluating the evidence led by the parties. Hence there is no force in this Regular Second Appeal. It is dismissed.

(R.S. Madan)
Judge

24.07.2007
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